

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DONALD MICHEL,

Plaintiff,

-v-

9:15-cv-1187
(DNH/ATB)

SGT. MANNA, Correctional Sergeant, Auburn
Correctional Facility; LT. TABATE, Hearing
Officer, Auburn Correctional Facility; and
HAROLD GRAHAM, Superintendent, Auburn
Correctional Facility,

Defendants.

APPEARANCES:

DONALD MICHEL
12-A-1124
Plaintiff pro se
Clinton Correctional Facility
P.O. Box 2000
Dannemora, NY 12929

HON. ERIC T. SCHNEIDERMAN
New York State Attorney General - Syracuse
Attorney for Defendants
615 Erie Boulevard West
Suite 102
Syracuse, NY 13204

TIMOTHY P. MULVEY, ESQ.
Ass't Attorney General

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiff Donald Michel brought this civil rights action pursuant to 42 U.S.C.

§ 1983. On January 17, 2017, the Honorable Andrew T. Baxter, United States Magistrate

Judge, advised by Report-Recommendation that defendants' motion for summary judgment be granted as to plaintiff's First Amendment claim, and that plaintiff's Equal Protection claim also be dismissed, without prejudice, sua sponte. Plaintiff filed untimely objections to the Report-Recommendation, despite having been given multiple extensions of time in which to do so. Though untimely, plaintiff's objections have been reviewed.

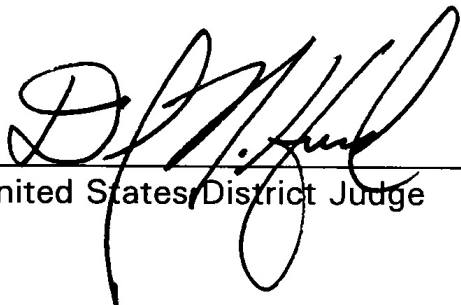
Based upon a de novo review of the portions of the Report-Recommendation to which plaintiff objected, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. § 636(b)(1).

Therefore, it is

ORDERED that

1. Defendants' motion for summary judgment is GRANTED;
2. Plaintiff's First Amendment claim is DISMISSED;
3. Plaintiff's Equal Protection claim is DISMISSED without prejudice;
4. Plaintiff has twenty (20) days in which to file an amended complaint asserting an Equal Protection claim which cures the deficiencies identified in the Report-Recommendation; and
5. The Clerk is directed to serve a copy of this Decision and Order upon plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.


United States District Judge

Dated: April 17, 2017
Utica, New York.